

**COMMISSIONER'S BULLETINS  
BOSTON INSPECTIONAL SERVICES**

**YEAR 1999**

Number: 99-7 (87-1)

Page 1 of 3

Date: September 15, 1998

Subject:

Definition and requirements of an Affidavit Project  
In the City of Boston

Determination:

Commissioner's Bulletin 87-1 is hereby rescinded.

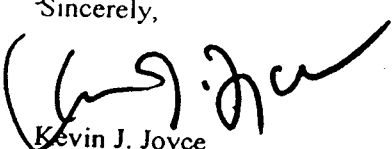
Part I

1. The purpose of this bulletin is to amplify the requirements for affidavit projects as authorized by the Massachusetts State Building Code (780CMR), and to clarify their application to the City of Boston.
2. Projects currently under construction on the effective date of this bulletin shall continue with respect to the requirements of bulletin 87-1. Projects currently under review or in the approval process shall be subject to the requirements of this bulletin.

Part II

3. It is established policy that affidavits are to be filed with the Inspectional Services prior to the issuance of the building permit for certain buildings or structures. This will remain the policy when the estimated cost of the project exceeds a fair market estimated cost of \$1,000,000.00, or when the project, in the opinion of the head of the Plan Review division, is determined to be a "complex structure". Notwithstanding these requirements, the head of the Plan Review division, with the approval of the Commissioner, may require individual affidavits, such as structural or mechanical affidavits, if deemed necessary, on projects which may not otherwise qualify as "Affidavit Projects".
4. When a project is, under the above criteria, designated as an "Affidavit Project", the following affidavits shall be required:
  - A. Design Affidavits
    1. Architectural Design Affidavit
    2. Structural Design Affidavit
    3. Mechanical Design Affidavit
    4. Electrical Design Affidavit

Sincerely,

  
Kevin J. Joyce  
Commissioner

5. With respect to "complex structures", the Chief of the Plans & Permits Division shall, in determining whether a proposed building may be designated as an "Affidavit Project", set forth his reasons in a memorandum to the Commissioner who may approve or disapprove the recommendation that it be so included. If approved, the Chief of the Plans & Permits Division may then proceed per the remainder of this bulletin.

6. When a project is, according to the previously stated criteria, designated as an "Affidavit Project", the following affidavits shall be required:

A. *Design Affidavits*

1. Architectural Design Affidavit
2. Structural Design Affidavit
3. Mechanical Design Affidavit
4. Electrical Design Affidavit

B. *Inspectional and/or Final Affidavits*

5. Inspection Affidavit
6. Licensed Builder Affidavit
7. Inspection Final Affidavit (Architect or Engineer)
8. Architectural Final Affidavit
9. Structural Final Affidavit
10. Mechanical Final Affidavit
11. Electrical Final Affidavit
12. Licensed Builder Final Affidavit

The formats of these affidavits are attached and made a part of this Bulletin.

7. The Inspection Affidavit Architect or Engineer (See Affidavit No. B-5 in Item 6 above) or Engineer shall be in the employ of the Owner, Design Architect or Design Engineer and not in the employ of the General Contractor or acting as the General Contractor.

8. In pursuance of the affidavit system, the Owner or the Inspection Affidavit Architect or Engineer shall appoint a qualified person to be the Clerk of the Works for the proposed project. In no case shall the Clerk of the Works be employed by or responsible to the Affidavit Contractor. However, the Clerk of the Works, in addition to all other responsibilities, shall be under the direct authority of the Commissioner of Inspectional Services, who shall, in addition, approve the appointment of the Clerk of the Works prior to the issuance of the permit. The Clerk of the Works shall submit a resume to the Commissioner, or his designee, indicating his technical qualifications. Upon approval by the Commissioner, there shall be executed an Appointment and Approval Form which is attached to this Bulletin as Appendix A.

The requirement of a full-time Clerk of the Works may be waived by the Commissioner, if in his opinion, full-time, on-site observation is not required. In such event, the duties of the Clerk shall be performed by the Inspection Affidavit Architect or Engineer during his weekly site visit.

9. The Inspecting Affidavit Architect or Engineer shall make at least one site visit per week to the building or structure for which the application was approved until the work is completed. He shall make a report monthly to the Commissioner of his visits.

In addition, the Clerk of the Works, as described in No. 8 above, shall maintain a daily log in a form and with such detail as shall be described and authorized by the Department of Inspectional Services.

10. The affidavit contractor, or his agent, must, prior to the issuance of any permit and before the affidavit project is approved, submit to the Chief of the Plans & Permits Division a copy of an approved Street Occupancy Permit received from the Boston Transportation Department. The details of application and the criteria for approval are contained in the Transportation Department's CONSTRUCTION MANAGEMENT PROGRAM report of December, 1986 from page 9 to the end of the booklet, and are a part of this Bulletin by reference. For further details contact the Boston Department of Transportation, Traffic Management Division, Room 721, City Hall, Boston.

19. The Commissioner of Inspectional Services may, upon written request of applicant, waive any part or all of this bulletin. The request shall include permit number, address, description of the proposed project including estimated cost and the specific reasons for the waiver requested. The Commissioner shall approve or reject the written request. In the case of approval, the Commissioner shall state the limits of the waiver and identify the specific conditions of the project which render the affidavit process or waived part thereof unnecessary or impossible.
20. In addition to all other requirements, the owner of the contractor shall present to the Department proof of a contract for rodent extermination which will show that extermination will take place before, during and at the completion of demolition. Rodent extermination is required for all excavation, foundation, basement and first floor work and on additional floors if they have been vacant.
21. It should be understood that this Bulletin does not apply to an applicant who applies and qualifies under the "Fast Track Permit Procedures" as outlined in Commissioner's Bulletin No. 86-5, December 10, 1986.

## APPENDIX A

### **ORDER OF THE COMMISSIONER OF INSPECTIONAL SERVICES CONCERNING ACCEPTANCE OF CLERK OF WORKS & REPORT REQUIREMENTS ON PROJECT**

Pursuant to Sections 108.6 and 127.4 of the Commonwealth of Massachusetts State Building Code (the "Code") and Commissioner's Bulletin, the following procedure for construction inspection reporting is hereby required during construction of the project.

The Project Representative (the "Representative") engaged by the Architect or owner to fulfill the requirements of Bulletin respecting a Clerk of the Works shall be subject to the approval of the Commissioner, which approval shall not be unreasonably withheld or delayed. The Commissioner may withdraw his approval of the Representative previously given if, in his reasonable judgment, the Representative is not discharging the responsibilities required by this Order with the professionalism required for a job of the size and complexity of the Project. Any replacement of the Representative shall be subject to the provisions of this paragraph concerning approval and withdrawal of approval by the Commissioner.

The Representative shall submit written reports directly to the Commissioner on the 1st day of each month. The reports shall contain a summary of construction activities on the Project site during the preceeding month, including work in progress and work completed, and a summary of all material deviations from the plans and specifications upon which said Building Permits were issued, or the requirements of Code, observed during such period and the disposition thereof. In addition to such monthly reports, the Representative shall advise the Commissioner whenever in his professional judgment a condition arises in the course of construction of the Project which is a material deviation from the plans and specifications upon which said Building Permits were issued, or the requirements of the Code, the remedy or correction of which cannot be or is not being undertaken in the ordinary course. Such advice shall be in writing and shall be hand delivered to the Commissioner.

## INSTRUCTIONS FOR MAINTAINING THE LOG BOOK

1. The Inspectional Services Department shall require the Affidavit Engineer or Architect to keep a log of his weekly visits until the final affidavit is filed. The log sheets shall be filed in a standard 3-ring loose-leaf binder with each page numbered.
2. The Log Book shall be signed by all Inspectional Services Department inspectors, all personnel for the testing lab, clerk of works, Affidavit Engineer and his consultants, and daily by the Licensed Builder.
3. The Log Book shall be kept in a neat and orderly manner and at a location where all required personnel shall have access to it.
4. The Clerk of the Works shall note conditions of weather, noting maximum wind velocity, maximum and minimum temperature and low temperature of preceeding 24-hour period. He shall also note maximum wind velocity and minimum temperatures for holidays and weekends when no construction operations take place.
5. The Log Book shall not be used as a visitor's registration book.
6. Whenever there is a change in the principal personnel of the project, all changes shall be duly noted, with the appropriate dates, on a new title sheet, marked Revision #1, etc. In addition, these changes should be mailed directly to the Commissioner of Inspectional Services.
7. After the final affidavit is signed and before the Certificate of Occupancy is granted, the Log Book shall be returned to the Inspectional Services Department.

PROJECT ADDRESS \_\_\_\_\_

LICENSED BUILDER: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Class: \_\_\_\_\_ Lic. No. \_\_\_\_\_

AFFIDAVIT ENGINEER or ARCHITECT: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Mass. Reg. No. \_\_\_\_\_

PERMITS:

NUMBER

CONTRACTOR

ADDRESS

Building \_\_\_\_\_

Electrical \_\_\_\_\_

Gas \_\_\_\_\_

Plumbing \_\_\_\_\_

Sprinkler \_\_\_\_\_

Elevator \_\_\_\_\_

# LOG BOOK

## Log Book Sheets

YEAR: \_\_\_\_\_

**SHEET:**

PROJECT ADDRESS: \_\_\_\_\_ WARD: \_\_\_\_\_ PERMIT NO. \_\_\_\_\_

PERMIT NO.

TIME	IN	OUT
------	----	-----

DATE NAME

COMPANY/POSITION

## ACTIVITY/FINDINGS



PROJECT LOCATION \_\_\_\_\_

LICENSED BUILDER: \_\_\_\_\_

Class: \_\_\_\_\_ Lic. No. \_\_\_\_\_

AFFIDAVIT ENGINEER or ARCHITECT: \_\_\_\_\_

Mass. Reg. No. \_\_\_\_\_

PERMITS:

NUMBER

CONTRACTOR

Building \_\_\_\_\_

Electrical \_\_\_\_\_

Gas \_\_\_\_\_

Plumbing \_\_\_\_\_

Sprinkler \_\_\_\_\_

Elevator \_\_\_\_\_

# AFFIDAVIT ARCHITECTURAL DESIGN

Permit No. \_\_\_\_\_

To the Commissioner, Inspectional Services Department.

Re: \_\_\_\_\_ Ward \_\_\_\_\_

I certify that to the best of my knowledge, information and belief, the plans and computations accompanying the attached application concerning the locus at

\_\_\_\_\_

\_\_\_\_\_ Ward \_\_\_\_\_ are in accordance with the requirements of the Massachusetts State Building Code and all other pertinent laws and ordinances.

\_\_\_\_\_  
ARCHITECT — MASS. REG. NO.

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

# AFFIDAVIT STRUCTURAL DESIGN

Permit No. \_\_\_\_\_

To the Commissioner, Inspectional Services Department.

Re: \_\_\_\_\_ Ward \_\_\_\_\_

I certify that to the best of my knowledge, information and belief, the plans and computations accompanying the attached application concerning the locus at

\_\_\_\_\_ Ward \_\_\_\_\_ are in accordance with the requirements of the Massachusetts State Building Code and all other pertinent laws and ordinances.

\_\_\_\_\_  
ENGINEER — MASS. REG. NO.

\_\_\_\_\_  
COMPANY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

# AFFIDAVIT MECHANICAL DESIGN

Permit No. \_\_\_\_\_

To the Commissioner, Inspectional Services Department.

Re: \_\_\_\_\_ Ward \_\_\_\_\_

I certify that to the best of my knowledge, information and belief, the plans and computations accompanying the attached application concerning the locus at

\_\_\_\_\_

\_\_\_\_\_ Ward \_\_\_\_\_ are in accordance with the requirements of the Massachusetts State Building Code and all other pertinent laws and ordinances.

\_\_\_\_\_  
ENGINEER — MASS. REG. NO.

\_\_\_\_\_  
COMPANY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

# AFFIDAVIT ELECTRICAL DESIGN

Permit No. \_\_\_\_\_

To the Commissioner, Inspectional Services Department.

Re: \_\_\_\_\_ Ward \_\_\_\_\_

I certify that to the best of my knowledge, information and belief, the plans and computations accompanying the attached application concerning the locus at

\_\_\_\_\_ Ward \_\_\_\_\_ are in accordance with the requirements of the Massachusetts State Building Code and all other pertinent laws and ordinances.

\_\_\_\_\_  
ENGINEER — MASS. REG. NO.

\_\_\_\_\_  
COMPANY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_

My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

## INSPECTION AFFIDAVIT

Permit No. \_\_\_\_\_

To the Commissioner, Inspectional Services Department.

Re: \_\_\_\_\_ Ward \_\_\_\_\_

I certify that I shall make at least one site visit per week from start to completion of construction to observe compliance with the Code and the approved plans and will make a report of my visits and findings. There will be a representative in my employ or in the employ of the owner on site, as outlined in Commissioner's Bulletin No. 86-revised, during construction operations. He will maintain a daily log of construction activities and report any discrepancies noted to me for my action or for my reporting to Inspectional Services Department. If the need or the situation warrants, I may substitute a Massachusetts registered architect or engineer for me subject to the written approval of the Inspectional Services Commissioner.

\_\_\_\_\_  
ARCHITECT OR ENGINEER — MASS. REG. NO.\_\_\_\_\_  
COMPANY\_\_\_\_\_  
ADDRESS\_\_\_\_\_  
PHONE

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_  
and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

# AFFIDAVIT LICENSED BUILDER

Permit No. \_\_\_\_\_

To the Commissioner, Inspectional Services Department.

Re: \_\_\_\_\_ Ward \_\_\_\_\_

I certify that I am duly licensed to take personal charge of work under the provisions of the Massachusetts State Building Code and that I shall perform only that work described on the Building Permit application and in accordance with the plans approved by the Inspectional Services Department. I further certify that this work shall be done in accordance with the provisions of the Massachusetts State Building Code and that I will be on the site at all times

during the construction of operations at \_\_\_\_\_

\_\_\_\_\_  
LICENSED BUILDER LICENSE NO.

\_\_\_\_\_  
CLASS WHEN EXPIRES

\_\_\_\_\_  
COMPANY ADDRESS

\_\_\_\_\_  
PHONE

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_  
and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

## INSPECTION FINAL AFFIDAVIT

To the Inspectional Services Commissioner:

I certify that I, or my authorized representative, have inspected the work associated with Permit  
 No. \_\_\_\_\_, dated \_\_\_\_\_, locus \_\_\_\_\_

Ward \_\_\_\_\_ (on the dates used below or on at least \_\_\_\_\_ occasions during construction), and that  
 to the best of my knowledge, information, and belief the work has been done in conformance with the permit and  
 plans approved by the Inspectional Services Department and with the provisions of the Massachusetts State Build-  
 ing Code and all other pertinent laws and ordinances.

\_\_\_\_\_  
 ARCHITECT OR ENGINEER — MASS. REG. NO.

\_\_\_\_\_  
 COMPANY

\_\_\_\_\_  
 ADDRESS

Inspection Dates:

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_  
 and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
 My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_



# ARCHITECTURAL FINAL AFFIDAVIT

To the Inspectional Services Commissioner:

I certify that I, or my authorized representative, have inspected the work associated with Permit No. \_\_\_\_\_, dated \_\_\_\_\_, locus \_\_\_\_\_

Ward \_\_\_\_\_ (on the dates used below or on at least \_\_\_\_\_ occasions during construction), and that to the best of my knowledge, information, and belief the work has been done in conformance with the permit and plans approved by the Inspectional Services Department and with the provisions of the Massachusetts State Building Code and all other pertinent laws and ordinances.

\_\_\_\_\_  
ARCHITECT — MASS. REG. NO.

\_\_\_\_\_  
COMPANY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE

Inspection Dates:

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_  
and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

## STRUCTURAL FINAL AFFIDAVIT

To the Inspectional Services Commissioner:

I certify that I, or my authorized representative, have inspected the work associated with Permit No. \_\_\_\_\_, dated \_\_\_\_\_, locus \_\_\_\_\_

Ward \_\_\_\_\_ (on the dates used below or on at least \_\_\_\_\_ occasions during construction), and that to the best of my knowledge, information, and belief the work has been done in conformance with the permit and plans approved by the Inspectional Services Department and with the provisions of the Massachusetts State Building Code and all other pertinent laws and ordinances.

ENGINEER — MASS. REG. NO. \_\_\_\_\_

COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

Inspection Dates:

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and made oath that the above statement by him is true.

Before me,

My Commission expires \_\_\_\_\_

\_\_\_\_\_ 19 \_\_\_\_\_

## MECHANICAL FINAL AFFIDAVIT

To the Inspectional Services Commissioner:

I certify that I, or my authorized representative, have inspected the work associated with Permit No. \_\_\_\_\_, dated \_\_\_\_\_, locus \_\_\_\_\_

Ward \_\_\_\_\_ (on the dates used below or on at least \_\_\_\_\_ occasions during construction), and that to the best of my knowledge, information, and belief the work has been done in conformance with the permit and plans approved by the Inspectional Services Department and with the provisions of the Massachusetts State Building Code and all other pertinent laws and ordinances.

ENGINEER — MASS. REG. NO. \_\_\_\_\_

COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

Inspection Dates:

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and made oath that the above statement by him is true.

Before me,

My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

## ELECTRICAL FINAL AFFIDAVIT

To the Inspectional Services Commissioner:

I certify that I, or my authorized representative, have inspected the work associated with Permit

No. \_\_\_\_\_, dated \_\_\_\_\_, locus \_\_\_\_\_

Ward \_\_\_\_\_ (on the dates used below or on at least \_\_\_\_\_ occasions during construction), and that to the best of my knowledge, information, and belief the work has been done in conformance with the permit and plans approved by the Inspectional Services Department and with the provisions of the Massachusetts State Building Code and all other pertinent laws and ordinances.

ENGINEER — MASS. REG. NO. \_\_\_\_\_

COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

Inspection Dates:

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_ and made oath that the above statement by him is true.

Before me,

My Commission expires \_\_\_\_\_

\_\_\_\_\_ 19 \_\_\_\_\_

## LICENSED BUILDER FINAL AFFIDAVIT

To the Inspectional Services Commissioner:

I certify that I, or my authorized representative, have inspected the work associated with Permit

No. \_\_\_\_\_, dated \_\_\_\_\_, locus \_\_\_\_\_

Ward \_\_\_\_\_ (on the dates used below or on at least \_\_\_\_\_ occasions during construction), and that to the best of my knowledge, information, and belief the work has been done in conformance with the permit and plans approved by the Inspectional Services Department and with the provisions of the Massachusetts State Building Code and all other pertinent laws and ordinances.

\_\_\_\_\_  
LICENSED BUILDER — LICENSE NO.

\_\_\_\_\_  
COMPANY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE

Inspection Dates:

\_\_\_\_\_ 19 \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_  
and made oath that the above statement by him is true.

Before me,

\_\_\_\_\_  
My Commission expires

\_\_\_\_\_ 19 \_\_\_\_\_

Number: 99-05

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Subject: Administrative Inspection Consent Forms

Date: August 27, 1999

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**Purpose:** To provide occupants with notice of their right to refuse to consent to an administrative inspection. To further provide Boston Inspectional Services inspectors with the procedure to follow in obtaining an administrative inspection warrant if the occupant refuses the inspector's request to enter.

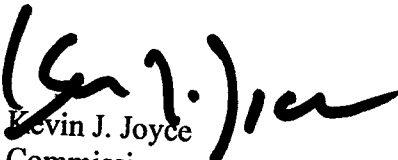
**Definition:** Administrative Inspection means all inspections performed to ensure compliance with the State Building Code, State Sanitary Code, the City of Boston Zoning Code, and all other ordinances, codes, regulations, and statutes that the Boston Inspectional Services Department is authorized to enforce.

**Determination:**

1. The Fourth Amendment of the United States Constitution safeguards individual privacy rights from unreasonable search and seizure by Government officials. This protection of individual privacy rights must be balanced against the necessity of administrative inspections required to protect the public health and safety.
2. To balance these two very important interests, the United States Supreme Court holds that administrative search warrants are necessary to conduct an administrative inspection, but only after the occupant refuses to grant the inspector entry.
3. The procedures set forth in this Bulletin safeguard occupants' constitutional rights to privacy, while at the same time, provide inspectors with evidence that they entered the property lawfully and with the prerequisite consent of the occupant.
4. In order to ensure compliance with these constitutionally provided privacy protections, the following procedures are mandatory for all Boston Inspectional Services Department employees and are effective immediately.

5. The purpose of these procedures is to inform occupants of the following: their constitutional right to refuse to allow entry; the purpose of the inspection; the scope of the inspection; and the inspector's authority to conduct the inspection.
6. Prior to entering a privately owned premise, one of two things must occur:
  - a. If present, the occupant must give inspectors their written consent to allow inspectors to enter the premise to conduct the inspection. Before inspectors enter a premise, they must have the occupant read and sign a Consent For Administrative Inspection form (approved form attached); or
  - b. If the occupant is present but refuses to allow the inspector to enter, a Boston Inspectional Services attorney shall assist the inspector in obtaining an administrative inspection warrant.
7. Recognizing that time is of the essence in connection with requests from inspectors regarding administrative inspection warrants, the Legal Division shall make an attorney and such other resources available to inspectors in a timely fashion to effect the purposes of this Bulletin.
8. The only exceptions to the requirement that a consent form be signed prior to the inspection is when:
  - a. Inspections are performed under the terms of issued permits; or
  - b. Inspections are required for annual certification and/or Certificates of Inspection.
9. The occupant from whom consent is received must be at least eighteen years of age and live at the residence.
10. Consent for Administrative Inspection forms shall be maintained by all inspectors in the records of each division and each division shall annually file said records on June 30 with the Boston Inspectional Services Legal Division.

Signed: \_\_\_\_\_

  
Kevin J. Joyce  
Commissioner

## CONSENT FOR ADMINISTRATIVE INSPECTION

I, THE UNDERSIGNED, UNDERSTAND THAT I MAY HAVE A Constitutional right to refuse to allow an inspection of the premises situated at \_\_\_\_\_ Unit # \_\_\_\_\_ (Boston), Massachusetts without an administrative inspection warrant.

I understand this right and I hereby waive the necessity of an administrative inspection warrant and do authorize members of the City of Boston Inspectional Services Department to conduct an inspection of the above-described premises without an administrative inspection warrant under the authority of, and for compliance with, the State Building Code, State Sanitary Code, the City of Boston Zoning Code, and all other ordinances, codes, regulations and statutes that the Boston Inspectional Services Department is authorized to enforce.

I, the undersigned, hereby represent that I am the owner-occupant-property manager- (other) \_\_\_\_\_ of the above-described premises.

I am 18 years of age or older.

I am signing this form voluntarily, without threats or promises of any kind.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Witnessed: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE TO INSPECTOR:** If an interpreter is needed, please do not enter. Inform your supervisor of the language needed and we will arrange to have an interpreter accompany you to the property at a later date.

(Form Approved 8/24/99)



Number: 99-05

---

Subject: Administrative Inspection Consent Forms

Date: August 27, 1999

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**Purpose:** To provide occupants with notice of their right to refuse to consent to an administrative inspection. To further provide Boston Inspectional Services inspectors with the procedure to follow in obtaining an administrative inspection warrant if the occupant refuses the inspector's request to enter.

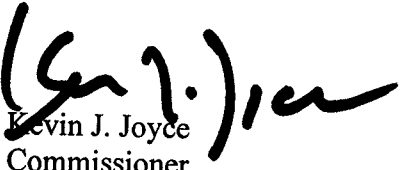
**Definition:** Administrative Inspection means all inspections performed to ensure compliance with the State Building Code, State Sanitary Code, the City of Boston Zoning Code, and all other ordinances, codes, regulations, and statutes that the Boston Inspectional Services Department is authorized to enforce.

**Determination:**

1. The Fourth Amendment of the United States Constitution safeguards individual privacy rights from unreasonable search and seizure by Government officials. This protection of individual privacy rights must be balanced against the necessity of administrative inspections required to protect the public health and safety.
2. To balance these two very important interests, the United States Supreme Court holds that administrative search warrants are necessary to conduct an administrative inspection, but only after the occupant refuses to grant the inspector entry.
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9. The occupant from whom consent is received must be at least eighteen years of age and live at the residence.
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Signed: \_\_\_\_\_

  
Kevin J. Joyce  
Commissioner

## CONSENT FOR ADMINISTRATIVE INSPECTION

I, THE UNDERSIGNED, UNDERSTAND THAT I MAY HAVE A Constitutional right to refuse to allow an inspection of the premises situated at \_\_\_\_\_ Unit # \_\_\_\_\_ (Boston), Massachusetts without an administrative inspection warrant.

I understand this right and I hereby waive the necessity of an administrative inspection warrant and do authorize members of the City of Boston Inspectional Services Department to conduct an inspection of the above-described premises without an administrative inspection warrant under the authority of, and for compliance with, the State Building Code, State Sanitary Code, the City of Boston Zoning Code, and all other ordinances, codes, regulations and statutes that the Boston Inspectional Services Department is authorized to enforce.

I, the undersigned, hereby represent that I am the owner-occupant-property manager- (other) \_\_\_\_\_ of the above-described premises.

I am 18 years of age or older.

I am signing this form voluntarily, without threats or promises of any kind.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Witnessed: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE TO INSPECTOR:** If an interpreter is needed, please do not enter. Inform your supervisor of the language needed and we will arrange to have an interpreter accompany you to the property at a later date.

(Form Approved 8/24/99)

# Commissioner's Bulletin

Department of Inspectional Services  
Boston, MA

Number: 99-05

Subject: Administrative Inspection Consent Forms

Date: August 27, 1999

Purpose: To provide occupants with notice of their right to refuse to consent to an administrative inspection. To further provide Boston Inspectional Services inspectors with the procedure to follow in obtaining an administrative inspection warrant if the occupant refuses the inspector's request to enter.

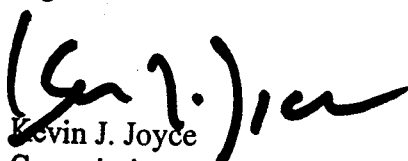
Definition: Administrative Inspection means all inspections performed to ensure compliance with the State Building Code, State Sanitary Code, the City of Boston Zoning Code, and all other ordinances, codes, regulations, and statutes that the Boston Inspectional Services Department is authorized to enforce.

## Determination:

1. The Fourth Amendment of the United States Constitution safeguards individual privacy rights from unreasonable search and seizure by Government officials. This protection of individual privacy rights must be balanced against the necessity of administrative inspections required to protect the public health and safety.
2. To balance these two very important interests, the United States Supreme Court holds that administrative search warrants are necessary to conduct an administrative inspection, but only after the occupant refuses to grant the inspector entry.
3. The procedures set forth in this Bulletin safeguard occupants' constitutional rights to privacy, while at the same time, provide inspectors with evidence that they entered the property lawfully and with the prerequisite consent of the occupant.
4. In order to ensure compliance with these constitutionally provided privacy protections, the following procedures are mandatory for all Boston Inspectional Services Department employees and are effective immediately.

5. The purpose of these procedures is to inform occupants of the following: their constitutional right to refuse to allow entry; the purpose of the inspection; the scope of the inspection; and the inspector's authority to conduct the inspection.
6. Prior to entering a privately owned premise, one of two things must occur:
  - a. If present, the occupant must give inspectors their written consent to allow inspectors to enter the premise to conduct the inspection. Before inspectors enter a premise, they must have the occupant read and sign a Consent For Administrative Inspection form (approved form attached); or
  - b. If the occupant is present but refuses to allow the inspector to enter, a Boston Inspectional Services attorney shall assist the inspector in obtaining an administrative inspection warrant.
7. Recognizing that time is of the essence in connection with requests from inspectors regarding administrative inspection warrants, the Legal Division shall make an attorney and such other resources available to inspectors in a timely fashion to effect the purposes of this Bulletin.
8. The only exceptions to the requirement that a consent form be signed prior to the inspection is when:
  - a. Inspections are performed under the terms of issued permits; or
  - b. Inspections are required for annual certification and/or Certificates of Inspection.
9. The occupant from whom consent is received must be at least eighteen years of age and live at the residence.
10. Consent for Administrative Inspection forms shall be maintained by all inspectors in the records of each division and each division shall annually file said records on June 30 with the Boston Inspectional Services Legal Division.

Signed: \_\_\_\_\_

  
Kevin J. Joyce  
Commissioner

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Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Witnessed: \_\_\_\_\_ Date: \_\_\_\_\_

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(Form Approved 8/24/99)

99-04

Ethics Committee established to assist the Inspectional Services Department and its employees in ensuring strict compliance with G.L. c. 268A and G.L.c 268B.

August 17, 1999

To establish an Ethics Committee within the Inspectional Services Department to assist the Inspectional Services Department in ensuring strict compliance with the requirements of G.L. c. 268A and G.L. c. 268B by, among other things: planning and implementing ethics policies and standards of conduct for all employees; providing ethics training seminars for all Inspectional Services Department employees; and making official inquiries into allegations of violations of G.L. c. 268A and G.L. c. 268B.

Statement:

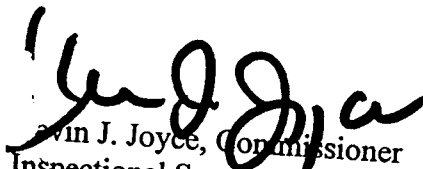
Every person conducting business with the Inspectional Services Department is entitled to be treated equally and fairly and every member of the public must be confident that the conduct of Inspectional Services Department employees is above reproach. High standards of ethics and conduct ensure that employees of the Inspectional Services Department will carry out their obligations honestly and fairly when serving the public.

The Ethics Committee assists the Inspectional Services Department in maintaining the confidence of the public and in maintaining high ethical standards of conduct of Inspectional Services Department employees by:

- a. Planning and implementing policies to ensure strict compliance with G.L. c. 268A and G.L. c. 268B;
- b. Developing and presenting training seminars for all Inspectional Services Department employees regarding the legal obligations that G.L. c. 268A and G.L. c. 268B place on public employees; and
- c. Inquiring into allegations of violations of G.L. c. 268A and G.L. c. 268B and reporting its findings and recommendations to the Commissioner of the Inspectional Services Department whom, when warranted, shall take appropriate action.

3. The Ethics Committee shall be a three member Committee comprised of the Deputy Commissioner of Government Services, who shall serve as chairperson ex officio, an Assistant Commissioner, and one employee each to be designated by the Commissioner. The term of the employee member shall be for one year commencing July 1<sup>st</sup> each year unless otherwise directed by the Commissioner. The Ethics Committee shall meet at least once a month and shall establish such administrative procedures that it deems necessary to effect its stated purpose.
4. Legal representation to the Ethics Committee, if needed, shall be provided by the legal department of the Inspectional Services Department.
5. Administrative assistance to the Ethics Committee, if needed, shall be made available by the Deputy Commissioner of Government Services.
6. The nature, existence, and records of any proceeding of the Ethics Committee concerning G.L. c. 268A or G.L. c. 268B shall be kept confidential. The Ethics Committee may, however, provide relevant information concerning a complaint or inquiry to a court of competent jurisdiction or law enforcement agency.

Signed:

  
Kevin J. Joyce, Commissioner  
Inspectional Services Department  
Boston, MA



# Commissioner's Bulletin

Department of Inspectional Services  
Boston, MA

Number: 99-03

Date: May 24, 1999

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Subject: Inspectional Services Department Employee Compliance with General Law Chapter 268A, the "State Ethics Law."

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Purpose: To ensure employees of the Inspectional Services Department fulfill their obligations as public employees with honesty and with integrity and serve the public with the highest standards of ethics so that every member of the public is treated equally and fairly under the law.

This Commissioner's Bulletin supercedes Commissioner's Bulletin Number 85-12 and dated December 3, 1985 so that the Department's policy is consistent with existing law.

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## Determination :

- 1) General Law Chapter 268A applies to conflicts of interest that may arise in the performance of public sector duties.
- 2) The requirements and prohibitions contained in General Law Chapter 268A have implications not only for public employees while they are employed by the government, but also place limitations on their business activities after they leave public employment.
- 3) All employees of the Inspectional Services Department will be held to a standard of strict compliance with all of the requirements and prohibitions contained in General Law Chapter 268A. Any violations of this statute could result in immediate termination of employment with this department.
- 4) Employees of the Inspectional Services Department are hereby prohibited from accepting any gift, gratuity, or service from any person, firm, or association which does business, directly or indirectly, with the Inspectional Services Department.

- 5) All Inspectional Services Department employees shall seek an official advisory opinion from the State Ethics Commission prior to negotiating for private employment with a party with whom the employee has concurrent official dealings.
- 6) When Inspectional Services Department employees believe that they are or could become involved in a situation that may present a potential conflict of interest under General Law Chapter 268A, they have an affirmative duty to comply with all disclosure requirements contained in General Law Chapter 268A and the "City of Boston's Ethics Policy."

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Signed:

*Gary P. Moccia*

Gary P. Moccia  
Inspector of Buildings

# Commissioner's Bulletin

Department of Inspectional Services  
Boston, MA

Number: 99-2

Date: May 19, 1999

Subject:

Reconstruction of buildings under Article 4, Section 4-1 of the Boston Zoning Code.


Purpose:

The following Commissioner's Bulletin provides the process for proceeding under Article 4, section 4-1 of the Boston Zoning Code and shall replace Commissioner's Bulletin 87-9 dated September 22, 1987 and rescinded on September 14, 1998.

Determination:

1. The strengthening or restoring of any portion of the building to a safe condition under Article 4, section 4-1 shall not be prevented by other requirements of the Boston Zoning Code provided that the building has been deemed unsafe by the Inspector of Buildings based upon a survey of the building conducted pursuant to 780 CMR.
2. Any building, or portion thereof, strengthened or restored to a safe condition under paragraph one above shall be:
  - a. limited to the footprint and square footage of the building as it was immediately prior to being deemed unsafe by the Inspector of Buildings; and
  - b. subject to BRA design review prior to the strengthening or restoring to a safe condition.
3. All strengthening or restoration conducted under the terms of this Bulletin and under Article 4, section 4-1 of the Boston Zoning Code shall be commenced within two years of the Inspector of Building's determination that the building or portion thereof is unsafe. However, the running of the two-year time limitation shall exclude any period of time during which litigation arising from the Inspector of Building's determination that the building is unsafe is pending.
4. Nothing in this Bulletin, unless expressly provided for, shall exempt projects conducted pursuant to this Bulletin from complying with all applicable codes or regulations.

Signed:

  
Gary P. Moccia  
Inspector of Buildings